

REMARKS

Claims 30-39, 41-43, 45-50, 52-55 and 59 presently appear in this case. Claims 50 and 52-55 have been withdrawn from consideration. Claims 30-39 and 59 have been allowed. Claims 41-49 have been rejected. The Official Action of February 25, 2009, and the Advisory Action of August 28, 2009, have now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to novel sphingoid-polyalkylamine conjugates, a process for their preparation, a process for use, and pharmaceutical compositions comprising the same.

Claims 41-49 have been rejected under 35 U.S.C. §112 because the term "activating agent" in claim 41 is a relative term which renders the claim indefinite. The examiner states that the term is not defined by the claim and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In the Advisory Action, the examiner stated that applicant's arguments and amendment, while entered, are not persuasive because applicants defined the agent in functional language. The examiner suggested reciting the agent employed in "claim 41 [sic, 44?]." This rejection is respectfully traversed.

In order to obviate this rejection and to place the case into condition for allowance, claim 41 has now been amended to insert the subject matter of claim 44 and claims 47 and 48 have been correspondingly amended. Withdrawn claim 54 has been amended to correct an obvious typographical error.

The present amendment must be admitted under 37 CFR 1.116(b)(1) as it effectively cancels claim 41 and replaces it with amended claim 41 which is the same scope as claim 44 rewritten in independent form. This obviates the only ground of rejection and thus also places the claims in better form for consideration on appeal (37 CFR 1.116(b)(2)). Accordingly, entry of this amendment, supplementing applicant's amendment of July 27, 2009, which was entered for the purpose of appeal, and passage of this case to issue are earnestly solicited.

It is submitted that all of the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. §112. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

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